



COMMITTEE STATEMENT

**Statement in Support of Republican's Amendment in Nature of a Substitute to
H.R. 3110 of Rep. Virginia Foxx (R-NC), Ranking Member, Education and Labor
Committee, Full Committee Markup:**

**"H.R. 3110, Providing Urgent Maternal Protections for Nursing Mothers Act;
H.R. 2062, Protecting Older Workers Against Discrimination Act"
May 27, 2021**

(As prepared for delivery)

"Thank you Mr. Chairman. I rise today to offer a Republican substitute amendment to H.R. 3110, the PUMP for Nursing Mothers Act. My fellow Republican Committee Members and I support existing protections in federal law for pregnant and nursing mothers. [In my experience as a working mother, these resources and accommodations are helpful to balance the needs of both work and family life.] But expansions that fail to deliver responsible, workable results are not worthy of the constituents we serve, and unfortunately such is the case with key portions of the bill we are discussing today.

"The purported goal of H.R. 3110 is to expand access to accommodations for nursing mothers in the workplace and improve health outcomes for mothers and their newborns. However, H.R. 3110 is overly broad and imposes unworkable and unnecessary burdens on certain employers. For example, it applies a one-size-fits-all treatment of all workplace facilities, even those that lack the resources and physical infrastructure to accommodate some of the bill's requirements, such as transportation-based locations including airplanes. Additionally, the bill mandates excessive penalties on employers for non-compliance.

"The Republican amendment replaces this flawed scheme by including workable and commonsense alterations to Fair Labor Standards Act break time accommodation requirements including further coverage for nursing mothers.

“The amendment modifies current law by providing these workplace accommodations to white collar executive, administrative, and professional employees, including academic personnel and teachers in elementary and secondary schools, while also maintaining current-law coverage of nonexempt, or hourly, employees. This ensures that workers in a broad array of workplace locations and professions have access and accommodations for pumping.

“Furthermore, H.R. 3110 significantly increases the penalties for employer violations of required accommodations for nursing mothers. These penalties are not proportionate with the types of potential FLSA breastfeeding accommodation violations under the bill.

“The Republican amendment, in addition to maintaining current-law remedies for violations, would address these concerns by preserving the authority of the Secretary of Labor to enforce compliance and punish offenders through the assessment of civil monetary penalties for repeat and willful violations.

“This provision will ensure that employers who violate breastfeeding accommodations are met with proportionate penalties for those actions.

“H.R. 3110 also implements a convoluted requirement that an employee is owed compensation for the entire length of a break in the event they are not entirely relieved from duty for the duration of it. This new requirement will create significant ambiguities and challenges in the modern workplace by failing to account for passive work time such as email, phone use, or radio monitoring.

“In response, the Republican amendment clarifies that a break for nursing and pumping is non-compensable only when a mother does not actively engage in work. It also clarifies that nursing mothers who engage in work during a break will be compensated accordingly.

“The clarifying language in this amendment is important because H.R. 3110 fails to account for the privacy needs of nursing mothers, creating conflicts between maintaining the private nature of time spent pumping breast milk while also requiring employers to monitor whether work is performed or not. This amendment therefore creates a workable standard for business owners with clear guidelines for when compensation is necessary during a break without violating nursing mothers’ privacy.

“Lastly, the amendment includes an alternative dispute process to allow employers to correct any violations within 30 days before enforcement proceedings begin and also maintains the 50-employee “undue hardship” provision found in existing law to protect smaller businesses, and requires a Government Accountability Office report to Congress to evaluate the implementation of the amendment’s provisions.

“The common-sense provisions in this amendment reflect our shared, bipartisan goal of protecting working mothers, recognizing that they have unique needs that demand unique accommodations in the workplace and that employers need clarity and workable requirements offer these accommodations. I hope my Democrat colleagues will see past partisanship to support this amendment. I urge a yes vote and yield back.”

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